

## Message Text

CONFIDENTIAL

PAGE 01 BONN 00930 01 OF 02 171714Z  
ACTION L-01

INFO OCT-01 SS-14 ISO-00 OES-02 SAL-01 DLOS-02 NSC-05  
NSCE-00 IO-06 INR-05 CIAE-00 DHA-02 EUR-08 /047 W  
-----171740Z 068188 /43  
R 171704Z JAN 77  
FM AMEMBASSY BONN  
TO SECSTATE WASHDC 4771

C O N F I D E N T I A L SECTION 01 OF 02 BONN 00930

LIMDIS

E.O. 11652: GDS  
TAGS: PLOS, PBOR, PFOR, ICJ, CA, GW  
SUBJECT: POSSIBLE CANADA-US ICJ SUBMISSION ON  
OFFSHORE BOUNDARY QUESTION

REF: STATE 5301

BEGIN SUMMARY: LIMITED, PUBLICLY AVAILABLE INFORMATION ON HERMANN MOSLER, MEMBER OF THE ICJ FROM THE FRG, INDICATES THAT HE HAS HAD AN INDEPENDENT ACADEMIC CAREER, BUT MORE AS AN ACADEMIC MANAGER AND EDITOR THAN A GREAT OR WIDELY RECOGNIZED LEGAL SCHOLAR. MOSLER SERVED 1951-53 AS DIRECTOR OF THE FRG FOREIGN OFFICE LEGAL DIVISION, BUT HAS HELD NO OTHER, NON-ACADEMIC, FRG PUBLIC SERVICE POSITION. HE HAS BEEN A JUDGE OF THE EUROPEAN HUMAN RIGHTS COURT SINCE 1959, AND ITS VICE-PRESIDENT SINCE 1974. IN THE US-CANADIAN BOUNDARY DISPUTE, FRG SELF-INTEREST PROBABLY LIES WITH THE CANADIAN POSITION. HOWEVER, THE EMBASSY HAS INSUFFICIENT INFORMATION TO JUDGE WHETHER MOSLER'S POSITION IN ANY ICJ ACTION ON THE BOUNDARY DISPUTE MIGHT BE EXTRANEOUSLY INFLUENCED BY THE LIKELY FRG PREFERENCE FOR A DECISION FAVORING CANADA. END SUMMARY  
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 BONN 00930 01 OF 02 171714Z

1. THE JUDGE FROM THE FRG ON THE INTERNATIONAL COURT OF JUSTICE (ICJ) IS HERMANN MOSLER WHO, IN NOVEMBER 1975, WAS VOTED A MEMBER OF THE ICJ FOR A 9-YEAR TERM.
2. MOSLER WAS BORN DEC 26, 1912, IN HENNEF/RHEINLAND AS SON OF A PRESIDING JUDGE. HE COMPLETED HIS LAW

STUDIES AND RECEIVED HIS DOCTORATE OF LAW IN BONN IN 1937. FROM 1937 TO 1945 HE WAS AN ASSISTANT AT THE KAISER-WILHELM-INSTITUTE FOR FOREIGN AND INTERNATIONAL LAW IN BERLIN. AFTER QUALIFYING FOR THE POSITION OF PROFESSOR AT THE UNIVERSITY IN BONN, HE BECAME A PRACTICING LAWYER THERE UNTIL CALLED IN 1949 TO THE UNIVERSITY OF FRANKFURT AS PRODDOR FOR PUBLIC, STATE AND ADMINISTRATIVE PU HE WAS FULL PROFESSOR IN FRANKFURT UNTIL 1954, XOP BINT#FROM 1951-53 AS DIRECTOR OF THE LEGAL DIVISION OF THE FOREIGN OFFICE IN BONN. FROM 1954 MOSLER WAS PROFESSOR FOR INTERNATIONAL LAW AND FOREIGN PUBLIC LAW AT HEIDELBERG UNIVERSITY WHERE HE WAS SIMULTANEOUSLY DIRECTOR OF THE MAX-PLANCK-INSTITUTE FOR FOREIGN, PUBLIC AND INTERNATIONAL LAW.

3. AS OF 1954 MOSLER BECAME A MEMBER OF THE PERMANENT HAGUE COURT OF ARBITRATION. IN JANUARY 1959 HE WAS ELECTED A JUDGE OF THE EUROPEAN HUMAN RIGHTS COURT AND WAS REELECTED IN 1956 FOR A FURTHER TERM OF 9 YEARS. IN MAY 1974 MOSLER WAS APPOINTED VICE-PRESIDENT OF THE EUROPEAN HUMAN RIGHTS COURT.

4. NONE OF MOSLER'S PUBLICATIONS SEEM DIRECTLY OR INDIRECTLY TO CONCERN THE DELIMITATION AND LOS QUESTIONS THAT COULD ARISE WERE THE US/ CANADIAN OFFSHORE BOUNDARY QUESTION TO BE SUBMITTED TO THE ICJ. THEY INCLUDE PUBLICATIONS ON ECONOMIC CONCESSIONS WHEN SOVEREIGNTY CHANGES; THE POSITION OF SUPER POWERS  
CONFIDENTIAL

CONFIDENTIAL

PAGE 03 BONN 00930 01 OF 02 171714Z

UNDER INTERNATIONAL LAW; ASSUMPTION OF MEMBERSHIP IN INTERNATIONAL ORGANIZATIONS; THE TREATY ON THE EUROPEAN COAL AND STEEL COMMUNITY; THE 1937 CONFERENCE ON COMBATTING TERRORISM; THE REVISION OF THE HAGUE AGREEMENT ON APPLICATION OF THE GENEVA CONVENTION TO WAR AT SEA; EXPANSION OF THE CATEGORY OF SUBJECTS OF INTERNATIONAL LAW; NATIONAL AND COMMUNITY INTERESTS IN THE PROCEDURE OF THE EEC COUNCIL OF MINISTERS; AUSTRO-GERMAN ARBITRATION UNDER THE 1961 TREATY OF FINANCE AND COMPENSATION; INTERNATIONAL LAW AS A LEGAL ORDER; TERMINATION OF THE STATE OF WAR WITH GERMANY AFTER WWII.

5. BOOK REVIEWS IN ENGLISH MAY BE FOUND IN THE FOLLOWING: 51 AJIL 144 (1957); 55 AJIL 510 (1961); 58 AJIL 214 (1964); 59 AJIL 696 AND 965 (1965). MOST OF THESE REVIEWS CONCERN VOLUMES IN A SERIES ON

NOTE BY OC/T: #AS RECEIVED.

CONFIDENTIAL

NNN

CONFIDENTIAL

PAGE 01 BONN 00930 02 OF 02 171717Z  
ACTION L-01

INFO OCT-01 SS-14 ISO-00 OES-02 SAL-01 DLOS-02 NSC-05  
NSCE-00 IO-06 INR-05 CIAE-00 DHA-02 EUR-08 /047 W  
-----171740Z 068223 /43

R 171704Z JAN 77  
FM AMEMBASSY BONN  
TO SECSTATE WASHDC 4772

C O N F I D E N T I A L SECTION 02 OF 02 BONN 00930

LIMDIS

DECISIONS OF GERMAN COURTS, THE PCIJ OR THE ICJ,  
EDITED BY MOSLER.

6. MOSLER'S ELECTION AS FIRST JUDGE FROM THE FRG TO  
THE ICJ APPARENTLY RAN INTO SOME DIFFICULTIES, AND HE  
RECEIVED THE NECESSARY 8 VOTES IN THE SECURITY COUNCIL  
ONLY ON THE THIRD BALLOT. THE EMBASSY ASSUMES THAT  
THE DEPARTMENT'S RECORDS WILL SHOW WHETHER THE  
REASONS FOR THESE DIFFICULTIES WAS POLITICAL OR ATTRI-  
BUTABLE IN SOME WAY TO MOSLER.

7. MOSLER'S STINT AS DIRECTOR OF THE LEGAL DIVISION  
OF THE FOREIGN OFFICE LIES APPROXIMATELY 25 YEARS  
BACK. THE EMBASSY HAS NO RECORDS OR KNOWLEDGE OF  
ANY PARTICULAR CHARACTER TRAITS OR PERSONAL INTERESTS  
THAT MAY HAVE PARTICULARLY MARKED HIS TENURE. THE  
EMBASSY ALSO HAS NO KNOWLEDGE WHETHER MOSLER MAINTAINS  
ANY RELATIONS WITH THE FOREIGN OFFICE, AND WHETHER HE  
WOULD BE LIKELY, DIRECTLY OR INDIRECTLY, TO GIVE  
UNDUE CONSIDERATION TO PREFERENCES OF THE FOREIGN  
OFFICE OR THE GERMAN GOVERNMENT WERE THE SUBJECT  
BOUNDARY DISPUTE TO BE SUBMITTED TO THE ICJ.

8. MOSLER'S INDEPENDENT ACADEMIC CAREER, LESS AS A  
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 BONN 00930 02 OF 02 171717Z

NOTED LEGAL AUTHORITY THAN AS AN ACADEMIC MANAGER AND EDITOR, MAY MAKE CONSULTATION BY MOSLER WITH THE FRG GOVERNMENT UNLIKELY. ON THE OTHER HAND, HIS TWO YEARS AS DIRECTOR OF THE FOREIGN OFFICE LEGAL DIVISION MAY, IN A QUESTION THAT COULD HAVE SOME IMPORTANCE FOR THE FRG, CAUSE HIM TO CONSULT AND GIVE SOME CONSIDERATION TO FRG PREFERENCES CONCERNING THE OUTCOME OF THE CASE.

9. TO THE EXTENT THAT MOSLER MAY BE INFLUENCED BY FRG FISHERY INTERESTS, HE MAY BE INCLINED TO SUPPORT CANADA'S CASE IN BOUNDARY DISPUTE. FROM FRG VIEWPOINT, IF CANADA WERE TO GAIN RIGHTS TOMarginally MORE FISHING GROUNDS, ESPECIALLY IN THE GEORGES BANK AREA, CANADA'S SMALLER FISHING FLEET WOULD PROBABLY PRODUCE A LARGER SURPLUS OF FISH TO BE DIVIDED AMONG FOREIGN FISHING STATES INCLUDING THE FRG. IN ADDITION, CANADA HAS DECIDED TO REMAIN IN ICNAF WHILE THE US HAS WITHDRAWN. THIS ACTION IN ITSELF, IN GERMAN EYES, SEEMS TO SIGNAL A HARDER LINE TOWARD FOREIGN FISHERMEN BY THE US AS COMPARED TO CANADA. ICNAF QUOTA DECISIONS PRESUMABLY WOULD TAKE FOREIGN FISHING INTERESTS MORE INTO ACCOUNT THAN NATIONAL DECISIONS ON QUOTAS.

10. IT IS DOUBTFUL THAT THE EMBASSY CAN AMASS ANY MORE INFORMATION ON MOSLER WITHOUT ASKING OFFICIALS AND ACADEMICIANS WHO MAY KNOW HIM. SUCH APPROACHES COULD RAISE QUESTIONS WHY THE EMBASSY IS INTERESTED. WE WOULD BE RELUCTANT TO TAKE SUCH STEPS UNLESS INSTRUCTED TO DO SO.  
STOESSEL

CONFIDENTIAL

NNN

## Message Attributes

**Automatic Decaptioning:** Z  
**Capture Date:** 01-Jan-1994 12:00:00 am  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** WATER BOUNDARIES, NEGOTIATIONS, TWO HUNDRED MILE LIMIT  
**Control Number:** n/a  
**Copy:** SINGLE  
**Sent Date:** 17-Jan-1977 12:00:00 am  
**Decaption Date:** 22 May 2009  
**Decaption Note:** 25 YEAR REVIEW  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 22 May 2009  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
**Document Number:** 1977BONN00930  
**Document Source:** CORE  
**Document Unique ID:** 00  
**Drafter:** n/a  
**Enclosure:** n/a  
**Executive Order:** GS  
**Errors:** N/A  
**Expiration:**  
**Film Number:** D770017-0093  
**Format:** TEL  
**From:** BONN  
**Handling Restrictions:**  
**Image Path:**  
**ISecure:** 1  
**Legacy Key:** link1977/newtext/t19770147/aaaabout.tel  
**Line Count:** 204  
**Litigation Code IDs:**  
**Litigation Codes:**  
**Litigation History:**  
**Locator:** TEXT ON-LINE, ON MICROFILM  
**Message ID:** 6fdaf2d8-c288-dd11-92da-001cc4696bcc  
**Office:** ACTION L  
**Original Classification:** CONFIDENTIAL  
**Original Handling Restrictions:** LIMDIS  
**Original Previous Classification:** n/a  
**Original Previous Handling Restrictions:** n/a  
**Page Count:** 4  
**Previous Channel Indicators:** n/a  
**Previous Classification:** CONFIDENTIAL  
**Previous Handling Restrictions:** LIMDIS  
**Reference:** 77 STATE 5301  
**Retention:** 0  
**Review Action:** RELEASED, APPROVED  
**Review Content Flags:**  
**Review Date:** 02-Feb-2005 12:00:00 am  
**Review Event:**  
**Review Exemptions:** n/a  
**Review Media Identifier:**  
**Review Release Date:** n/a  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**SAS ID:** 3584960  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** POSSIBLE CANADA-US ICJ SUBMISSION ON OFFSHORE BOUNDARY QUESTION  
**TAGS:** PLOS, PBOR, PFOR, CA, GE, ICJ  
**To:** STATE  
**Type:** TE  
**vdkgvwkey:** odbc://SAS/SAS.dbo.SAS\_Docs/6fdaf2d8-c288-dd11-92da-001cc4696bcc  
**Review Markings:**  
Margaret P. Grafeld  
Declassified/Released  
US Department of State  
EO Systematic Review  
22 May 2009  
**Markings:** Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009